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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,790	06/28/2001	Joseph Dara-Abrams	080398.P444	8907

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06/20/2003

Marina Portnova  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

WACHSMAN, HAL D

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/896,790

Applicant(s)

DARA-ABRAMS ET AL.

Examiner

Hal D Wachsman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-29 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 04 November 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman  
Primary Examiner  
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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-28-03 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 3-6, 8, 9, 11, 16-18 and 22-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Babula et al. (6,381,557).

As per claim 1, Babula et al. (see at least abstract) disclose the receiving step. Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose the providing step. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the "conventional consumer electronic device functionality" to run a wide variety of commercially available software for various applications.

As per claim 3, Babula et al. (col. 11 lines 4-59) disclose the feature of this claim.

As per claim 4, Babula et al. (see at least abstract) disclose the feature of each of this claim.

As per claim 5, Babula et al. (see at least abstract) disclose the feature of each of this claim.

As per claim 6, Babula et al. (Abstract, col. 6 lines 36-42) disclose the feature of this claim.

As per claim 8, Babula et al. (see at least abstract) disclose the feature of this claim.

As per claim 9, Babula et al. (see at least abstract) disclose the feature of this claim.

As per claim 11, Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose the collecting step. Babula et al. (see at least abstract) disclose the utilizing step and "when the problem is identified, notifying a user about the problem". The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the "conventional consumer electronic device functionality" to run a wide variety of commercially available software for various applications.

As per claim 16, Babula et al. (Abstract, col. 7 lines 24-41, col. 9 lines 5-39) disclose the features of this claim.

As per claim 17, Babula et al. (Abstract, col. 8 lines 58-67, col. 9 lines 1-22) disclose the feature of this claim.

As per claim 18, Babula et al. (Abstract, col. 4 lines 34-39) disclose the feature of this claim.

As per claim 22, Babula et al. (see at least abstract) disclose the feature of this claim.

As per claim 23, Babula et al. (see at least abstract) disclose the means for receiving information as described in lines 3-4 of the claim. Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose the means for

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providing a diagnostic procedure as described in the last 5 lines of the claim. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the "conventional consumer electronic device functionality" to run a wide variety of commercially available software for various applications.

As per claim 24, Babula et al. (see at least abstract) disclose the user interface as described in lines 3-4 of the claim. Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose the gateway device as described in the last 5 lines of the claim. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the "conventional consumer electronic device functionality" to run a wide variety of commercially available software for various applications.

As per claim 25, Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose the means for collecting data. Babula et al. (see at least abstract) disclose the means for utilizing the collected data and the means for notifying a user. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the "conventional consumer electronic device

functionality” to run a wide variety of commercially available software for various applications.

As per claim 26, Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose “a data collector to collect data...faulty consumer electronic device locally”. Babula et al. (see at least abstract) disclose “a problem identifier to utilize the collected data...faulty consumer electronic device” and “a user interface to notify...when the problem is identified”. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the “conventional consumer electronic device functionality” to run a wide variety of commercially available software for various applications.

As per claim 27, Babula et al. (see at least abstract) disclose “one or more potentially faulty consumer electronic devices” and “at least one testing consumer electronic device...potentially faulty consumer electronic devices”. Babula et al. (Abstract, col. 6 lines 15-35, col. 7 lines 12-28, col. 11 lines 4-25, 48-59) disclose “a diagnostic procedure host device....at least one testing consumer electronic device locally”. The Examiner notes that the field service unit (24) as shown in the Abstract figure is a laptop computer and management station (70) in the Abstract figure clearly shows a personal computer. It is inherent in the art that both of these are personal computers which have the “conventional consumer electronic device functionality” to run a wide variety of commercially available software for various applications.



As per claim 28, Babula et al. (see at least abstract) disclose the feature of this claim.

As per claim 29, Babula et al. (see at least abstract) disclose the feature of this claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, 7, 10, 12-14 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babula et al. (6,381,557) in view of the Applicant's Admissions of the prior art.

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As per claim 2, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 7, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 10, Babula et al. (Figure 10) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in

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the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 12, Babula et al. (see at least abstract) disclose what is described in this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claim 13, Babula et al. (Abstract, col. 5 lines 15-24, 45-53, col. 7 lines 24-33) disclose the features of this claim.

As per claim 14, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that stimuli such as a sequence of test vectors were notoriously well known in the art and that measurement instructions would be needed to specify what exactly in the potentially faulty consumer electronic device needs to be tested.

As per claim 19, Babula et al. (Abstract, figure 10) disclose the feature of this claim with the exception of the use of a home network. However, the Applicant's Admissions of the prior art (page 10 lines 13-16, page 12 lines 7-13 of the specification) teach this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the Applicant's Admissions of the prior art to the invention of Babula et al. as specified above because as taught by the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) the HAVi standard provides a home network architecture which is open, scaleable, platform independent, and language neutral.

As per claims 20 and 21, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have a reference signature of a known properly operating equipment consumer electronic device to which comparisons can be so as to detect abnormalities.

6. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 15, if rewritten as described above, would be allowable over the prior art because the prior art does not disclose or suggest instructing a testing consumer electronic device that is communicating with a potentially faulty consumer electronic device via a home network, to generate test data on one of a plurality of streaming outputs, to direct the test data to a streaming input of the potentially faulty consumer

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electronic device, and to capture output data of the potentially faulty consumer electronic device.

7. The following references are cited as being art of additional general interest:

Skardon which discloses a consumer electronics allergen detection and air/asthma advice device which can be used by a patient in the home, Eytchison which discloses a home entertainment system and the use of the IEEE 1394 standard for consumer electronics communications, Mankovitz which discloses that in the electronic age, homes are filled with various household electronic appliances with consumers telling a programming assistant what appliances are being used in their homes and Otworth et al. which disclose a consumer electronics medical diagnostic testing kit for home use.

8. Applicant's arguments filed 11-4-02 have been fully considered but they are not persuasive. The Examiner first notes that no arguments were provided with respect to the Applicant's Admissions of the prior art applied in the 35 U.S.C. 103 rejections above. With respect to the arguments from the bottom of page 10 to the top of page 11 of the reply, the Examiner respectfully notes again from the final office action, as indicated in Webster's II New Riverside University Dictionary, a consumer is a buyer that acquires goods or services. Thus, in the Babula et al. reference, a hospital or a buyer or administrator representing the hospital or clinic who buys the imaging electronic systems is a consumer. These medical diagnostic systems therefore are indeed consumer electronic devices, thus Babula et al. certainly does disclose the diagnosing of consumer electronic devices. In addition, consumer electronic devices are not limited to the range of devices presented on page 1 of the specification. Evidence of


this for example has been provided in the Skardon reference (noted in paragraph 7 above) which discloses the use of the IEEE 1394 high performance serial bus or the **consumer electronics** bus (CEBus Standard EIA-600 – see column 6, lines 32-44) for a air/asthma apparatus (i.e. medical apparatus) which can be used by a patient in the home. The Eytchison reference (noted in paragraph 7 above) also discloses that the IEEE 1394 standard is ideal for consumer electronics communications (col. 1 lines 42-43) which standard as shown above can be applied in the Skardon reference. In addition, the Mankovitz reference (col. 1 lines 6-8) discloses that our homes are filled with various electronic appliances and cites such devices as thermostats and kitchen appliances. Furthermore, the Applicant's Admissions of the prior art (page 12 lines 11-13 of the specification) clearly states that the HAVi standard provides a home network architecture which is **open**, scaleable, **platform independent**, and language neutral, thus providing additional evidence that a variety of electronic devices could be used in the home network and is not just limited to devices such as personal computers, set-top boxes, etc. as cited on page 1, lines 12-16, of the specification. With respect to the arguments on page 11 concerning the conventional and extra functionality for diagnosis, this has already been addressed in the 35 U.S.C. 102 rejections above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

  
Hal D Wachsmann  
Primary Examiner  
Art Unit 2857

HW  
June 15, 2003